

**For discussion on  
11 October 2021**

## **Legislative Council Panel on Welfare Services**

### **Registration of Social Workers**

#### **Purpose**

This paper briefs Members on our proposal to amend Schedule 2 of the Social Workers Registration Ordinance (Cap. 505) (SWRO) so that a person convicted of any offence endangering national security shall be disentitled from being or continuing to be a registered social worker.

#### **Consideration**

2. The SWRO was enacted in 1997 to provide for the registration of social workers and disciplinary control of the professional activities of registered social workers, and for related matters, including the setting and review of the qualification standards for the registration of social workers, formulation and approval of codes of practice, and handling of disciplinary matters.

3. The Social Workers Registration Board (SWRB) is established under the SWRO, comprising 15 members who serve on a three-year term. Eight of the members shall be registered social workers elected by registered social workers; six members shall be appointed by the Chief Executive, of whom not less than three shall be persons who are neither a registered social worker nor a public officer; and one member shall be the Director of Social Welfare (DSW) or his/her representative. SWRB may decide whether persons convicted of criminal offences can be registered as registered social workers. A person convicted of any of the serious offences listed in Schedule 2 (extracted at Annex) of the SWRO shall be disentitled from being or continuing to be a registered social worker, unless all the prevailing members of the SWRB resolve that he/she be so registered.

4. The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (NSL) was enacted by the Standing Committee of the National People's Congress on 30 June 2020. Article 3 of the NSL provides that it is the duty of the Hong Kong Special Administrative Region (HKSAR) to safeguard national security, and the executive authorities, legislature and judiciary of the HKSAR shall effectively prevent, suppress and punish any act or activity endangering national security in accordance with the NSL and other relevant laws. Article 9 provides that the HKSAR Government shall take necessary measures to

strengthen public communication, guidance, supervision and regulation over matters concerning national security, including those relating to schools, universities, social organisations, the media, and the internet.

5. The social work profession, through serving in social organisations, plays a pivotal role in helping people in need and shoulders social responsibility towards their service users with whom they are in frequent contact. Social workers, with the trust of service users, stand to exert on them significant influence in matters including those of concern to national security. Persons convicted of offences endangering national security, if permitted to discharge the duties of social workers, would put the interest of the service users at stake, cast doubt on the integrity of the social work profession and tarnish the professional image of social workers. It is hence important to include offences endangering national security in Schedule 2 of the SWRO to underline their seriousness, and to better ensure that a person convicted of any of such offences will not be entitled to be or continue to be a registered social worker, unless all SWRB members resolve otherwise.

## **Proposal**

6. Under section 39(2) of the SWRO, the Secretary for Labour and Welfare may, by order published in the Gazette, amend Schedule 2 of the SWRO. For the purpose explained in paragraph 5 above, we propose to add “offences endangering national security” to Schedule 2. These offences shall include, but are not limited to, the offences of “secession”, “subversion”, “terrorist activities” and “collusion with a foreign country or with external elements to endanger national security” stipulated in the NSL, and the offences of “treason” and “sedition” in the Crimes Ordinance (Cap. 200). It is not feasible to list all such offences specifically in Schedule 2 because some of them may not be, on the face of their elements, offences endangering national security, but could be regarded as such in a particular case under certain circumstances.

7. We plan to take forward the proposed amendment to Schedule 2 in the next term of the Legislative Council. The Government will monitor the operation and performance of the SWRB in discharging its statutory functions and consider further legislative amendments as necessary.

## **ADVICE SOUGHT**

8. Members are invited to note the proposal and offer views.

**Labour and Welfare Bureau  
Social Welfare Department  
October 2021**

**Extracts of Schedule 2 of the SWRO**

Description of Offences which Disentitle Persons from Being or Continuing to be Registered Social Workers

1. An offence under the following section of the #Affiliation Proceedings Ordinance (Cap. 183)—

#Cap. 183 was repealed by section 79 of the Law Reform (Miscellaneous Provisions and Minor Amendments) Ordinance 1997 (80 of 1997).

Section / Description

16(b) ill-treating a child

2. An offence under any of the following sections of the Crimes Ordinance (Cap. 200)—

Section / Description

47 incest by men

48 incest by women of or over 16

118 rape

118A non-consensual buggery

118B assault with intent to commit buggery

118C homosexual buggery with or by a man under 16 (Amended 18 of 2014 s. 12)

118D buggery with a girl under 21

118E buggery with a mentally incapacitated person (Amended 21 of 2020 s. 65)

118F (Repealed 18 of 2014 s. 12)

118G procuring others to commit homosexual buggery

- 118H gross indecency with or by a man under 16 (Amended 18 of 2014 s. 12)
- 118I gross indecency by a man with a male mentally incapacitated person (Amended 21 of 2020 s. 65)
- 118J gross indecency by a man with another man otherwise than in private
- 118K procuring gross indecency by a man with another man
- 118L bestiality
- 119 procurement of an unlawful sexual act by threats or intimidation
- 120 procurement of an unlawful sexual act by false pretences
- 121 administering drugs so as to enable a third person to do an unlawful sexual act
- 122 indecent assault
- 123 sexual intercourse with a girl under 13
- 124 sexual intercourse with a girl under 16 (if, but only if, the offender was more than 18 years of age at the time of the offence)
- 125 sexual intercourse with a woman who is a mentally incapacitated person (Amended 21 of 2020 s. 65)
- 126 abduction of an unmarried girl under 16
- 127 abduction of an unmarried girl under 18 for sexual intercourse
- 128 abduction of a mentally incapacitated person for an unlawful sexual act (Amended 21 of 2020 s. 65)
- 129 trafficking in persons for the purpose of prostitution
- 130 control over persons for the purpose of unlawful sexual acts or prostitution
- 131 causing prostitution
- 132 procurement of a girl under 21 to have sexual intercourse
- 133 procurement of a woman who is a mentally incapacitated person to have sexual intercourse (Amended 21 of 2020 s. 65)

- 134 detention of a person for an unlawful sexual act or in a vice establishment
- 135 causing or encouraging the prostitution of, an unlawful sexual act with, or indecent assault on a girl or boy under 16
- 136 causing or encouraging the prostitution of a mentally incapacitated person (Amended 21 of 2020 s. 65)
- 137 living on earnings of prostitution of others
- 138A use, procurement or offer of persons under 18 for making pornography or for live pornographic performances (Added 31 of 2003 s. 26)
- 139 keeping a vice establishment
- 140 permitting a girl or boy under 13 to resort to or be on premises for prostitution or an unlawful sexual act
- 141 permitting a young person to resort to or be on premises or vessel for the purpose of sexual intercourse, prostitution, buggery or a homosexual act
- 142 permitting mentally incapacitated person to resort to or be on premises or vessel for intercourse, prostitution or homosexual act (Amended 21 of 2020 s. 65)
- 146 indecent conduct towards a child under 16
- 147 soliciting for an immoral purpose
- 148 indecency in public
- 153Q(1) arrangement relating to commission against a child of act outside Hong Kong that offends Schedule 2 provision (Added 31 of 2003 s. 26)

For the avoidance of doubt, where an offence under a section of the Crimes Ordinance (Cap. 200) may, by virtue of section 153P of that Ordinance, be constituted by an act committed outside Hong Kong, a reference in this item to an offence under that section includes a reference to an offence so constituted. (Added 31 of 2003 s. 26)

3. An offence under any of the following sections of the Offences against the Person Ordinance (Cap. 212)—

Section / Description

- |    |  |
|----|--|
| 2  | murder   |
| 5  | conspiring or soliciting to commit murder  |
| 7  | manslaughter   |
| 10 | administering poison or wounding with intent to commit murder  |
| 11 | destroying or damaging building with intent to commit murder   |
| 12 | setting fire to or casting away ship with intent to commit murder  |
| 13 | attempting to administer poison, or shooting, or attempting to shoot or drown, etc., with intent to murder |
| 14 | attempting to commit murder by means not specified   |
| 15 | sending letter threatening to murder   |
| 17 | shooting or attempting to shoot, or wounding or striking with intent to do grievous bodily harm            |
| 19 | wounding or inflicting grievous bodily harm  |
| 20 | attempting to choke, etc., in order to commit indictable offence   |
| 21 | using chloroform, etc., in order to commit indictable offence  |
| 22 | administering poison, etc., so as to endanger life or inflict grievous bodily harm                         |
| 23 | administering poison, etc., with intent to injure, etc.  |
| 26 | exposing a child whereby his or her life is endangered   |
| 27 | ill-treatment or neglect by those in charge of a child or young person                                     |
| 29 | causing gunpowder to explode, etc., or throwing corrosive fluid, with intent to do grievous bodily harm    |
| 30 | placing gunpowder near building, etc., with intent to do bodily injury                                     |
| 31 | setting spring gun, etc., with intent to inflict grievous bodily harm                                      |

- 42 forcible taking or detention of a person with intent to sell him or her
- 43 stealing a child under 14 years
- 44 unlawful transfers of possession, custody or control of other persons for valuable consideration
- 47B child destruction
- 47C infanticide

4. An offence under any of the following sections of the Protection of Children and Juveniles Ordinance (Cap. 213)—

Section / Description

- 26 abduction of child or juvenile
- 42 assisting escape of child or juvenile from custody or control